

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOHN E. CLEARY,

Plaintiff,

vs.

Civil Action 2:05-CV-559  
Judge Frost  
Magistrate Judge King

ALBERTO GONZALES, *et al.*,

Defendants.

**REPORT AND RECOMMENDATION**

Plaintiff, who is proceeding without the assistance of counsel, has filed a motion for default judgment against all defendants, all of whom are employees of the United States. Doc. No. 9. The record reflects, however, that service of process was not effected on the United States Attorney for the Southern District of Ohio, as is required by F.R. Civ. P. 4(i).<sup>1</sup>

Because the time for defendants' response to the complaint has not yet passed, it is hereby **RECOMMENDED** that plaintiff's motion for default judgment, Doc. No. 9, be **DENIED**.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed

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<sup>1</sup>Service was issued to the United States Attorney for the Southern District of Ohio on September 21, 2005. Doc. No. 11.

within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

October 7, 2005

s/Norah McCann King  
Norah McCann King  
United States Magistrate Judge